

HAMPTON PLANNING BOARD – MINUTES
SEPTEMBER 7, 2005 – 7:00 PM

PRESENT: Tracy Emerick, Chairman
Tom Higgins, Vice Chairman
Fran McMahon, Clerk
Robert Viviano
Tom Gillick
Jim Workman, Selectman Alternate
Keith Lessard
James Steffen, Town Planner

ABSENT: None

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members. There was a recitation of the Pledge of Allegiance to the flag.

Chairman Emerick announced continuation requests for the following applications:

- 3) Jane B Gallagher
Special Permit to Impact Wetlands Conservation District at
31 Harbor Road
Map 295 Lot 62
Owner of Record: Jane B Gallagher
SP05-04

This application needs to come before the Conservation Commission.

MOVED by Mr. Lessard to continue this application to the October 5th meeting of the Planning Board.

SECOND by Mr. McMahon

VOTE: 6-1-0

MOTION PASSED

- 8) Pond Side LLC c/o Malcolm Smith
Lot Line Adjustment at
221 Woodland Road
Map 96 Lot 1
Owner of Record: Malcolm E Smith III
SUB05-01

8a) Pond Side LLC c/o Malcolm Smith
4-lot Subdivision Review at
195 & 201 Woodland Road
Map 95 Lot 2 and Map 96 Lot 3
Owner of Record: Pond Side LLC c/o Malcolm Smith

8b) Pond Side LLC c/o Malcolm Smith
Special Permit to impact Wetlands Conservation District at

195 & 201 Woodland Road
Map 95 Lot 2 and Map 96 Lot 3
Owner of Record: Pond Side LLC c/o Malcolm Smith

The owner has requested a continuation to the October 5th Meeting of the Planning Board.

MOVED by Mr. Lessard to continue this application to the October 5th meeting of the Planning Board

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

- 13) William & Diane Delaney
Site Plan Review at
17 Whitten Street Unit #6 (F)
Map 295 Lot 41
Owners of Record: William & Diane Delaney
SP05-01

MOVED by Mr. Lessard to continue this application to the October 5th meeting of the Planning Board

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

NEW PUBLIC HEARINGS

- 1) Andrew J and Karen B Fuhrmann
Special Permit to Impact Wetlands Conservation District at
5 Ice House Lane
Map 195 Lot 13-5
Owner of Record: Karen and Andrew Fuhrmann
SP05-01

Andrew and Karen Fuhrmann presented this application. The applicant proposes to construct a deck.

BOARD

Mr. Lessard asked if the applicants had a letter from the condominium association giving their approval for this project.

PUBLIC

No Comment

BOARD

MOVED by Mr. Gillick to grant the Special Permit to Impact the Wetlands Conservation District at 5 Ice House Lane, Map 195 Lot 13-5, with the condition that an approval letter from the condominium association is submitted to become part of the application.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 2) Henry Stonie
Special Permit to Impact Wetlands Conservation District at
1050 Ocean Boulevard
Map 116 Lot 2
Owner of Record: Henry & Mary Jo Stonie
SP05-02

Mr. Stonie presented this application. He described the condition of the seawall and his proposed repairs.

BOARD

Mr. Higgins asked if the wall would be replaced with stones or a wall. He indicated the Board has been approving cement walls along that stretch of beach. He questioned whether or not the Board wished to remain consistent.

Mr. Lessard stated the Conservation Commission prefers rocks to walls. Mr. Gillick commented that there is more surface area with rock walls.

PUBLIC

No Comments

BOARD

MOVED by Mr. Lessard to grant the Special Permit to Impact the Wetlands Conservation District at 1050 Ocean Boulevard, Map 116 Lot 2.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

- 4) Nexlife Properties, LLC
Special Permit to Impact Wetlands Conservation District at
108 Glade Path
Map 262 Lot 13
Owner of Record: Nexlife Properties, LLC
SP05-03

Mr. Jeff Corner, an owner of Nexlife Properties, presented this application. He indicated that he wanted to improve the property by demolishing all existing structures and constructing a new 2-story building that will meet all required setbacks and locating the new building further from the wetland.

BOARD

Mr. Gillick asked for clarification of the location of the new structure.

Mr. Lessard stated that a porch discussed at the Conservation Commission did not appear on plans submitted to Planning Board. The applicant distributed additional drawings showing the porch.

Mr. Viviano indicated that property line appears to encroach on Glade Path. The Board discussed this issue.

PUBLIC

Richard Perkins, 106 Glade Path, indicated he had no discontent with the project. But he does have concerns about the proximity to his property line (8 feet). He suggested the new structure be more centrally located on lot to give him more space.

BOARD

MOVED by Mr. Gillick to approve with the suggestion that the owner clarify the property line with the Town.

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

- 5) Condo View Realty Trust
Carolyn N Rioux, Trustee
Request for Waiver from School Impact Fee at
30 Towle Farm Road
Map 123 Lot 3
Owner of Record: Same as above
WV05-01

Mr. Stephen Ells, Attorney, and Mr. Peter Ross, Principal, presented this application. Mr. Ells indicated the project was approved as Housing for Older Persons, specifically that one person in the household would be 55 or older. The applicant is requesting a waiver from the School Impact Fee.

BOARD

Mr. Gillick stated that he believes that we all have a responsibility to fund the education of children. He does not believe the impact fee should apply only to households with school-aged children.

PUBLIC

Elizabeth Webb, 11 Windmill Lane, spoke against the granting of this waiver. She indicated that there have been three years of electoral votes for the impact fee. This is a clear mandate from the citizens to apply the impact fee.

Mr. Ells rebutted, stating that projects without children are encouraged in the Town by the waiver provision. He stated that the drafters included the waiver provision for this reason.

BOARD

MOVED by Mr. Gillick to deny the request for a waiver from the School Impact Fee at 30 Towle Farm Road, Map 123, Lot 3.

SECOND by Mr. McMahon

VOTE: 6-1-0

MOTION PASSED

- 6) Janet Reynolds, Trustee of Fatima Realty Trust
Request for Waiver from School Impact Fee at
377 Ocean Boulevard
Map 265 Lot 20
Owner of Record: Fatima Realty Trust
WV05-02

Mr. Stephen Ells, Attorney, and Ms. Jean Boudreau, Principal, presented this application. Mr. Ells asked for a waiver from the School Impact Fee for the net difference in dwelling units. Specifically, the applicant is proposing to build 52 dwelling units. There are 46 units there now, including cottages and the manager's unit. He then referred to a previous project at F Street that had kitchens and qualified as dwelling units. He said that, with that project, even though the new units were bigger, that shouldn't be used to determine the applicability of the impact fee.

BOARD

Mr. Higgins stated that the Board didn't have the Assessor's card to establish the actual number of units currently at the location.

Mr. Ells stated there were year-round Certificates of Occupancy for 46 units, and he had copies of those in his possession.

Mr. Gillick said the Board should be consistent with previous similar applications.
Mr. Higgins stated the Board should still have the Assessor's tax card as documentation.

PUBLIC

Elizabeth Webb, 11 Windmill Lane, agrees that the School Impact Fee should apply only to the additional units being constructed, but that it shouldn't be waived for those additional units.

BOARD

MOVED by Mr. Viviano to waive the School Impact Fee for the 46 replacement units, with the impact fee payable for the net difference of 6 additional units, with verification with the Town Assessor.

SECOND by Mr. Gillick

VOTE: 6-1-0

MOTION PASSED

- 7) Paul W Hobbs 1989 Trust
Minor Lot Line Adjustment at
67 + 71 Mooring Drive
Map 289 Lots 39 + 40
Waivers Requested: Subdivision Regulations Section V.E. (Detailed Plan)
& Section VII.C (Storm Drainage)
Owner of Record: Paul W Hobbs
LL05-01

Mr. Peter Saari, Attorney, and Mr. Ernest Cote, Surveyor, presented this application. Mr. Saari said that lot line currently runs through a deck. In response to a question from the Board, Mr. Saari said that Mr. Hobbs intends to sell these lots.

PUBLIC

No comment

BOARD

MOVED by Mr. Gillick to grant waivers requested from Subdivision Regulations Section V.E. (Detailed Plan) & Section VII.C (Storm Drainage)

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to grant lot line adjustment subject to conditions in Mr. Steffen's memo of August 25th.

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

- 9) Kensington Engineering & Richard Brady
Lot Line Adjustment at
111 + 115 Timber Swamp Road
Map 119 Lots 5 + 6
Owners of Record: Kensington Engineering & Richard Brady
SUB05-02
- 9a) Kensington Engineering & Richard Brady
3-lot Subdivision at
111 + 115 Timber Swamp Road
Map 119 Lots 5 + 6
Waivers Requested: Subdivision Regulations Section V.E. (Detailed Plan)
& Section VII.C (Storm Drainage)
Owners of Record: Kensington Engineering & Richard Brady
SUB05-02

Mr. Richard Brady, Principal, and Mr. Ernest Cote, Surveyor, presented this application. Mr. Cote described the intended change.

In response to Mr. Gillick's question, it was clarified that the intent was to create 3 lots out of 2 current lots. The third lot would have frontage on Summerwood Drive.

Mr. Lessard asked if there were wetlands on the property.

In response to a question from Mr. Lessard, the owner indicated his intent was to conform to the type of construction going on in the neighborhood.

PUBLIC

No Comment

BOARD

MOVED by Mr. Gillick to grant the Lot Line Adjustment at 111 + 115 Timber Swamp Road, Map 119 Lots 5 + 6

SECOND by Mr. Lessard

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to grant waivers requested from Subdivision Regulations Section V.E. (Detailed Plan) & Section VII.C (Storm Drainage)

SECOND by Mr. Lessard

VOTE: 5-2-0

MOTION PASSED

MOVED by Mr. Gillick to grant the 3-lot subdivision at 111 Timber Swamp Road, Map 119 Lots 5 and 6, with conditions as specified in the Planner's memo, dated August 29th.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

- 10) Bley Realty
Condominium Conversion at
10 Summerwood Drive
Map 137 Lots 1 –5 (A & B)
Waiver Requested: Subdivision Regulations Section V.E. (Detailed Plan)
Owners of Record: Richard A & Ruth E Bley
CC05-01

Mr. Peter Saari, Attorney, and Mr. Richard Bley, Principal, presented this application. Mr. Saari said each time units are built in this subdivision, approval is needed from the Planning Board to record plans as a condominium. Everything on the plans was part of the original subdivision approval.

BOARD

Mr. Lessard said there should be assigned parking spaces indicated on the plans.

Mr. Lessard asked if Summerwood has protective covenants.

PUBLIC

No comment

BOARD

MOVED by Mr. Lessard to approve waiver from Subdivision Regulations Section V.E. (Detailed Plan)

SECOND by Mr. McMahon
VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Lessard to approve the condominium conversion with conditions as stated in the Planners memo of August 26th.

SECOND by Mr. McMahon
VOTE: 7-0-0

MOTION PASSED

- 11) Russell Anderson/Voyager Realty LLC
Condominium Conversion at
20 Ocean Boulevard
Map 296 Lot 89
Waivers Requested: Subdivision Regulations Section V.E. (Detailed Plan)
& Section VII.C (Storm Drainage)
Owner of Record: Voyager Realty, LLC
CC05-02

Mr. Ernest Cote, Surveyor, and Mr. Russell Anderson, Owner, presented this application. The proposal is to convert an existing motel into privately owned condominiums. The current units #1 and #8 have been combined into a single unit. Parking will be as it exists today. There are a total of 10 parking spaces, including a garage on Concord Avenue, that is part of the lot.

BOARD

Mr. Higgins asked for dimensions of the current parking spaces to determine if they are legal, conforming spaces. There are 10 alleged parking spots, some of which are non-conforming.

PUBLIC

No comments

BOARD

Mr. Lessard stated the site plan should show the measurements of the parking spaces, including the size of the garage, which is counted as 2 parking spaces. He also stated assigned parking should be required.

Mr. McMahon asked if this approval would be for the motel, remaining as motel units, with stays limited to 89 days.

MOVED by Mr. Lessard to continue this application to the Planning Board meeting of September 21st to get revised plans showing designated parking, parking space dimensions and to secure Certificates of Occupancy.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

- 12) Robert J & Judith A Bouchard
Condominium Conversion at
80 Plymouth Street
Map 305 Lot 35
Waivers Requested: Subdivision Regulations Section V.E. (Detailed Plan)
& Section VII.C (Storm Drainage)
Owner of Record: Robert J & Judith A Bouchard
CC05-03

Mr. Ernest Cote, Surveyor, and Robert Bouchard, Owner, presented this application. Mr. Cote stated the intent is to convert the existing 2 units in the home to a condominium form of ownership.

BOARD

Mr. Lessard asked if the parking area could be designated on the plans.

PUBLIC

No Comments

BOARD

MOVED by Mr. Lessard to grant waivers from Subdivision Regulations Section V.E. (Detailed Plan) & Section VII.C (Storm Drainage) at 80 Plymouth, Map 305 Lot 35

SECOND by Mr. Mr. Mahon

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Lessard to grant the condominium conversion, subject to the conditions stated in the Planners memo of August 26th.

SECOND by Mr. Gillick

VOTE: 7-0-0

MOTION PASSED

- 14) Elaine & Fred Ayotte
Site Plan Review at
465 Ocean Boulevard
Map 266 Lot 31
Owner of Record: Elaine & Fred Ayotte
SP05-02

Mr. Peter Saari, Cassasa & Ryan, and Joe Coronati, Jones & Beach Engineers, presented this application. Mr. Coronati said Zoning Board approval has been received to construct this 5-unit structure. He described the project. He stated impervious surface will go from 72% to 73% because the site is currently paved extensively. The 100-year flood plain runs through the back of the property.

BOARD

Mr. Gillick asked if the elevations presented were part of the application. There are no dimensions on the elevations. Mr. Gillick asked which variances were granted by the Zoning Board of Adjustment. Mr. Steffen recited the variances granted. The Board asked if there were any variances requested and not granted.

Mr. Gillick said he has concerns about emergency apparatus accessing the rear of the building.

PUBLIC

Attorney Tom Ferrini, of Wyskiel, Boc, Tillinghast & Bolduc, representing the abutter Seabreeze Condominium Association, distributed copies of a letter to the Board. Mr. Ferrini requested that the public hearing be continued. Seabreeze Condominium Association wishes the opportunity to have its own engineers review the drainage analysis and sediment and erosion control plan, as well as the site plan.

BOARD

MOVED by Mr. Gillick to send the plan out for departmental review

There was no second to this motion.

Mr. Lessard expressed concerns about the plans as currently presented.

MOVED by Mr. Gillick to accept jurisdiction of the application, to send it out for comprehensive Departmental review, and to continue the public hearing to the Planning Board's October 19th meeting.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

- 15) Drakes Appleton Corporation
Amended Site Plan Review to construct a **48 Unit Condo** with associated parking, utilities, sewer, water, & with 2 options for storm water control plans at
180 Drakeside Road (rear)
Map 172, Lot 12-1
Waiver requested: Site Plan Regulations Section VII.D.2. (match peak runoff

events)
Owner of record: Morgan Ryan Realty Trust
SP05-03

15a) Drakes Appleton Corporation
Special Permit to work within the Wetlands District, associated with **48 unit Condominium** at 180 Drakeside Road (rear)
Map 172, Lot 12-1
Owner of record: Morgan Ryan Realty Trust

Mr. Lessard and Mr. Pratt recused themselves from this application. Mr. Lessard left the meeting at this time.

Mr. Joe Coronati, Jones & Beach Engineers, and Mr. Tom Nigrelli, Principal, presented this application.

Mr. Nigrelli stated this was a revised plan, which incorporates a sidewalk from the furthest western boundary east to the public access trail. This would be a 5-foot concrete sidewalk. Drainage would be under the sidewalk. The rest of the plan remains exactly the same – e.g. two 24-unit buildings.

BOARD

Mr. Higgins asked what happened to the guardrail that Mr. Nigrelli had originally agreed to put at the railroad bridge. Mr. Nigrelli said it didn't come up in his discussion with Mr. Emerick and Mr. Hangen. He related a story, indicating that it is customary for motorists to play "chicken" at the railroad underpass.

PUBLIC

Al Santoro, 59 Hampton Meadows, read a letter from the Hampton Meadows Condominium Association Board of Directors protesting the proposed project. Specifically, the Hampton Meadows Board takes a position in opposition to any development on the South side of Drakeside Road that requires variances from the Zoning Ordinance.

Jack Murningham, 101 Hampton Meadows, stated he represents the 153 owners at Hampton Meadows. He stated the condominium pays over a million dollars in taxes to the Town and places relatively little demand on services. He voiced the opposition of all Hampton Meadows owners to the proposal.

BOARD

Chairman Emerick stated that this project came to the Planning Board with all of the variances from the Zoning Board, and the Planning Board has no authority to address those issues. He said the Board has met with counsel and the applicant has provided

expert testimony regarding the traffic impact on Drakeside Road. Also, the Planning Board's traffic expert has agreed with the applicant's traffic engineer.

Chairman Emerick stated that the Planning Board discussed this application with counsel this evening. He said the Board is setting policy with respect to a sidewalk on Drakeside Road. The Planning Board does have to consult with the Department of Public Works to be sure that the sidewalk meets DPW specifications.

The Chairman asked the Board to continue the application to the September 21st meeting to allow time to check with the Department of Public Works regarding the adequacy of the sidewalk.

MOVED by Mr. Gillick to accept jurisdiction and send the amended site plan out for Departmental review, with a date certain of October 19th.

SECOND by Mr. Viviano

VOTE: 5-0-0

MOTION PASSED

CONTINUED PUBLIC HEARINGS

- 16) Carl S Brytz & John Baker
Minor Lot Line Adjustment at
238 + 246 Woodland Road
Map 77 Lots 5 + 7
Waiver from Subdivision Regulations S. V.E (Detailed Plan) & VII.C (Storm Drainage)
Owner of Record: Carl S Brytz & John Baker
LL05-02

Mr. Lessard was absent for this application.

Mr. Ernest Cote, Surveyor, presented this application. He said there were letters from the owners giving him the authority to represent them.

BOARD

Mr. Gillick asked for the purpose of the lot line adjustment. Mr. Cote said he didn't know. Mr. Gillick clarified that two lots were being modified

PUBLIC

No Comment

BOARD

MOVED by Mr. Gillick to grant the waiver from Subdivision Regulations S. V.E (Detailed Plan) & VII.C (Storm Drainage)

SECOND by Mr. Viviano

VOTE: 6-0-0

MOTION PASSED

MOVED by Mr. Gillick to grant the lot line adjustment with conditions as specified in Mr. Steffen's memo of August 29th.

SECOND by Mr. Viviano

VOTE 6-0-0

MOTION PASSED

- 3) Dean Koravos
Special Permit to Impact Wetlands Conservation District at
1048 Ocean Boulevard
Map 116, Lot 4
Owner of Record: Dean Koravos
SP05-05

The applicant had not yet arrived for this application.

MOVED by Mr. Higgins to continue the application to December 21st.

SECOND by Mr. McMahon.

VOTE: 2-4-0

MOTION FAILED

MOVED by Mr. Viviano to continue the application to October 19th.

SECOND by Mr. Gillick

VOTE: 4-2-0

MOTION PASSED

II. CONSIDERATION OF MINUTES of August 17, 2005

MOVED by Mr. Higgins to accept the minutes as written.

SECOND by Mr. Gillick

VOTE: 4-0-2

MOTION PASSED

Mr. Viviano stated that he wants paper copies of all materials relating to the Planning Board placed in his folder. He does not want e-mail.

III. OTHER BUSINESS

- Salt Creek Condominiums - Mr. Steffen read a letter relating to this project. No action required at this time.
- Letter from Gail Sweeney regarding resources available in the area for community decision makers. The Board suggested sending the material to the Conservation Commission.
- Nathaniel Court – Mr. Steffen recommended the requested bond reduction be approved. Mr. Hangen recommended that a performance guarantee of \$47, 015 be established.

MOVED by Mr. Gillick to approve bond amount

SECOND by Mr. Higgins

VOTE: 6-0-0

MOTION PASSED

- Harbor Road bond amount – Mr. Steffen cited a recommended bond amount of \$25,000 for offsite intersection improvements.

MOVED by Mr. Gillick to approve bond amount.

SECOND by Mr. Higgins

VOTE: 6-0-0

MOTION PASSED

Chairman Emerick stated that Town Counsel suggested charging a rate of \$90 per hour for legal review of condominium documents to recover administrative costs.

Mr. Steffen said we also do not charge applicants for trips to the registry to record documents.

Mr. Gillick stated that the Board has the right to recover reasonable administrative costs. If we are not doing that, we should do so. The Planner will need to make recommendations to the Town Manager to follow through on this.

MOVED by Mr. Gillick to adjourn

SECOND by Mr. Viviano

VOTE: 6-0-0

MOTION PASSED

Meeting adjourned at 9:20 PM.

Respectfully Submitted,

Barbara Renaud
Planning Board Secretary